

REMARKS

Claims 2 to 17, 27 to 31, 33 and 34 continue to be under consideration.

Claims 18 to 26 are being cancelled.

The Office Action refers to the Information Disclosure Statement.

The information disclosure statement (IDS) that was submitted on 05/09/2008 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner is considering the information disclosure statement.

Applicants appreciate the consideration given to the Information Disclosure Statement by the Examiner.

The Office Action refers to Claim Rejections - 35 USC § 103.

Claims 18-24, and 26 stand rejected under 35 U.S.C 103(a) as being unpatentable over Dieras et al. (USPN4,804,364) in view of Christ et al. (USPN5,984,889). Dieras et al. discloses an apparatus for the curettage or exeresis of biological tissue by means of ultrasonic vibration.

Applicants are cancelling claims 18 to 26.

Regarding claims 18-24, and 26, Dieras et al. discloses a medical treatment apparatus (Figure 1) capable of being used for wound treatment with a hand piece (18) equipped with an ultrasound vibration generator (6) with electric connection means (11) and a sonotrode (14) attached to the hand piece (18), characterized in that wherein a channel (lumen of 14) is disposed within the sonotrode for feeding a medical flushing liquid to a tip of the sonotrode (near 2) via a flushing line (4) connector; wherein an adaptation sleeve (7) can be slid over the sonotrode (14) of the medical treatment apparatus and wherein the adaptation sleeve (7) can be attached at the hand piece (near 19), wherein

the adaptation sleeve (7) is equipped with a connector (lumen near 15) for receiving a suction hose (Figures 1-7, cols 1-2).

Dieras et al. meets the claim limitations as described above except for a valve within the flushing line and a screw type sleeve connection.

However, Christ et al. teaches an apparatus and method for ultrasonic tissue intervention. Regarding claims 18-24, and 26, Christ et al. teaches a medical treatment apparatus (Figure 2) capable of being used for wound treatment with a hand piece (28) equipped with an ultrasound vibration generator (32) operating at 20-100kHz (col 4, In 25-40) and a sonotrode (20) attached to the hand piece (28), characterized in that wherein a channel (lumen of 20) is disposed within the sonotrode for feeding a medical flushing liquid to a tip of the sonotrode (near 20) via a flushing line (near 126) connector with a valve interface; wherein an adaptation sleeve (7) can be slid over the sonotrode (14) of the medical treatment apparatus and wherein the adaptation sleeve (12) can be attached at the hand piece (near 28) via a threaded connection (Figures 1-4).

At the time of the invention, it would have been obvious to add the fluid control valve and the threaded sleeve connection in order to add fluid control and easy cleaning and disassembly of the unit. The references are analogous in the art and with the instant invention; therefore, a combination is proper. Therefore, one skilled in the art would have combined the teachings in the references in light of the disclosure of Christ et al. (cols 1-2).

Applicants are cancelling claims 18 to 26.

The Office Action refers to Claim Rejections - 35 USC § 103.

Claim 25 stands rejected under 35 U.S.C 103(a) as being unpatentable over Dieras et al. (USPN4,804,364) in view of Christ et al. (USPN5,984,889). The modified Dieras et al. meets the claim limitations as described above except for the opacity of the fluid lines and ultrasound drive materials.

The present amendment cancels Claim 25.

Regarding claim 25, it would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the fluid tubes of an opaque or non-opaque substance in order to see the contents or get optimal pressure resistance depending on the material selected and it would have been obvious to substitute the piezoelectric drive with a magneto drive since both are well known ultrasound generation means, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960)

The present amendment cancels Claim 25.

The Office Action refers to Allowable Subject Matter.

Claims 2-17, 27-31 and 33-34 are allowed.

Applicants sincerely appreciate the indication of allowability of claims 2-17, 27-31 and 33-34.

Reconsideration of all outstanding rejections is respectfully requested.

All claims presently submitted are deemed to be in allowable form and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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